



Senate

General Assembly

File No. 517

February Session, 2014

Substitute Senate Bill No. 248

Senate, April 14, 2014

The Committee on Government Administration and Elections reported through SEN. MUSTO of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PUBLIC WORKS PROJECTS AND THE THRESHOLD FOR COMPETITIVE BIDDING, SUBCONTRACTOR PREQUALIFICATION, CONSTRUCTION MANAGER AT-RISK PROJECT DELIVERY CONTRACTS, THE HIRING OF CONSULTANTS AND THE PURCHASING OF CERTAIN PROPERTY AND SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) and (b) of section 4b-91 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2014*):

4 (a) [Every] (1) As used in this section, "prequalification
5 classification" means the prequalification classifications established by
6 the Commissioner of Administrative Services pursuant to section 4a-
7 100, "public agency" has the same meaning as provided in section 1-
8 200 and "awarding authority" means the Department of
9 Administrative Services, except "awarding authority" means (A) the
10 Joint Committee on Legislative Management, in the case of a contract
11 for the construction of or work on a building or other public work

12 under the supervision and control of the joint committee, or (B) the
13 constituent unit of the state system of higher education, in the case of a
14 contract for the construction of or work on a building or other public
15 work under the supervision and control of such constituent unit.

16 (2) Except as provided in subdivision (3) of this subsection, every
17 contract for the construction, reconstruction, alteration, remodeling,
18 repair or demolition of any public building or any other public work
19 by the state [except a public highway or bridge project or any other
20 construction project administered by the Department of
21 Transportation, which] that is estimated to cost more than five
22 hundred thousand dollars [, except a contract awarded by the
23 Commissioner of Administrative Services for (1) a community court
24 project, as defined in subsection (j) of section 4b-55, (2) the downtown
25 Hartford higher education center project, as defined in subsection (l) of
26 section 4b-55, (3) a correctional facility project, as defined in subsection
27 (m) of section 4b-55, (4) a juvenile detention center project, as defined
28 in subsection (n) of section 4b-55, or (5) a student residential facility for
29 the Connecticut State University System that is a priority higher
30 education facility project, as defined in subsection (f) of section 4b-55,]
31 shall be awarded to the lowest responsible and qualified general
32 bidder who is prequalified pursuant to section 4a-100 on the basis of
33 competitive bids in accordance with the procedures set forth in this
34 chapter, after the [Commissioner of Administrative Services or, in the
35 case of a contract for the construction of or work on a building or other
36 public work under the supervision and control of the Joint Committee
37 on Legislative Management of the General Assembly, the joint
38 committee or, in the case of a contract for the construction of or work
39 on a building or other public work under the supervision and control
40 of one of the constituent units of the state system of higher education,
41 the constituent unit,] awarding authority has invited such bids by
42 posting notice [posted] on the State Contracting Portal. The awarding
43 authority shall indicate the prequalification classification required for
44 the contract in such notice.

45 (3) The requirements set forth in subdivision (2) of this subsection

46 shall not apply to (A) a public highway or bridge project or any other
47 construction project administered by the Department of
48 Transportation, or (B) a contract awarded by the Commissioner of
49 Administrative Services for (i) any public building or other public
50 works project administered by the Department of Administrative
51 Services that is estimated to cost more than five hundred thousand
52 dollars but less than one million five hundred thousand dollars, (ii) a
53 community court project, as defined in subsection (j) of section 4b-55,
54 (iii) the downtown Hartford higher education center project, as
55 defined in subsection (l) of section 4b-55, (iv) a correctional facility
56 project, as defined in subsection (m) of section 4b-55, (v) a juvenile
57 detention center project, as defined in subsection (n) of section 4b-55,
58 or (vi) a student residential facility for the Connecticut State University
59 System that is a priority higher education facility project, as defined in
60 subsection (f) of section 4b-55.

61 (4) Every contract for the construction, reconstruction, alteration,
62 remodeling, repair or demolition of any public building or any other
63 public work by a public agency that is paid for, in whole or in part,
64 with state funds and that is estimated to cost more than five hundred
65 thousand dollars [, except a public highway or bridge project or any
66 other construction project administered by the Department of
67 Transportation,] shall be awarded to a bidder that is prequalified
68 pursuant to section 4a-100 after the public agency has invited such bids
69 by notice posted on the State Contracting Portal, except for (A) a public
70 highway or bridge project or any other construction project
71 administered by the Department of Transportation, or (B) any public
72 building or other public works project administered by the
73 Department of Administrative Services that is estimated to cost more
74 than five hundred thousand dollars but less than one million five
75 hundred thousand dollars. The [Commissioner of Administrative
76 Services, the joint committee, the constituent unit or the public agency,
77 as the case may be] awarding authority or public agency, as the case
78 may be, shall indicate the prequalification classification required for
79 the contract in such notice. [As used in this section, "prequalification
80 classification" means the prequalification classifications established by

81 the Commissioner of Administrative Services pursuant to section 4a-
82 100. As used in this section, "public agency" means public agency, as
83 defined in section 1-200.]

84 (5) Every contract for the construction, reconstruction, alteration,
85 remodeling, repair or demolition of any public building or other public
86 works project administered by the Department of Administrative
87 Services that is estimated to cost more than five hundred thousand
88 dollars but less than one million five hundred thousand dollars shall
89 be awarded, where practicable, through a process of sealed bidding
90 developed by the Commissioner of Administrative Services. The
91 process to be developed by the commissioner shall be different from
92 the process required under this chapter and shall include, but not be
93 limited to, the solicitation of bids from (A) at least three contractors
94 from a list of preselected contractors, or (B) all available contractors
95 from a list of preselected contractors if fewer than three are available,
96 who are deemed by the commissioner to possess the skill, ability and
97 integrity necessary to perform the specific scope of work for the
98 purpose of providing construction services to the state.

99 (b) The [Commissioner of Administrative Services, the joint
100 committee or the constituent unit, as the case may be,] awarding
101 authority shall determine the manner of submission and the conditions
102 and requirements of such bids, and the time within which the bids
103 shall be submitted, consistent with the provisions of this section and
104 sections [4b-91] 4b-92 to 4b-96, inclusive. Such award shall be made not
105 later than ninety days after the opening of such bids. If the general
106 bidder selected as the general contractor fails to perform the general
107 contractor's agreement to execute a contract in accordance with the
108 terms of the general contractor's general bid and furnish a performance
109 bond and also a labor and materials or payment bond to the amount
110 specified in the general bid form, an award shall be made to the next
111 lowest responsible and qualified general bidder, or, in the case of a
112 contract awarded by the Department of Administrative Services under
113 subdivision (5) of subsection (a) of this section, to another qualified
114 preselected contractor. No employee of [the Department of

115 Administrative Services, the joint committee or a constituent unit] an
116 awarding authority with decision-making authority concerning the
117 award of a contract and no public official, as defined in section 1-79,
118 may communicate with any bidder prior to the award of the contract if
119 the communication results in the bidder receiving information about
120 the contract that is not available to other bidders, except that if the
121 lowest responsible and qualified bidder's price submitted is in excess
122 of funds available to make an award, the [Commissioner of
123 Administrative Services, the Joint Committee on Legislative
124 Management or the constituent unit, as the case may be,] awarding
125 authority may negotiate with such bidder and award the contract on
126 the basis of the funds available, without change in the contract
127 specifications, plans and other requirements. If the award of a contract
128 on [said] such basis is refused by such bidder, the [Commissioner of
129 Administrative Services, the Joint Committee on Legislative
130 Management or the constituent unit, as the case may be,] awarding
131 authority may negotiate with other contractors who submitted bids in
132 ascending order of bid prices without change in the contract,
133 specifications, plans and other requirements. In the event of
134 negotiation with general bidders as provided in this section, the
135 general bidder involved may negotiate with subcontractors on the
136 same basis, provided such general bidder shall negotiate only with
137 subcontractors named on such general bidder's general bid form.

138 Sec. 2. Subsection (j) of section 4b-91 of the general statutes is
139 repealed and the following is substituted in lieu thereof (*Effective July*
140 *1, 2014*):

141 (j) [On and after October 5, 2009, no] No person whose subcontract
142 exceeds five hundred thousand dollars in value may perform work as
143 a subcontractor on a project for the construction, reconstruction,
144 alteration, remodeling, repair or demolition of any public building or
145 any other public work by the state or a municipality, except a public
146 highway or bridge project or any other construction project
147 administered by the Department of Transportation, which project is
148 estimated to cost more than five hundred thousand dollars and is paid

149 for, in whole or in part, with state funds, unless, at the time of the bid
150 submission, the person is prequalified in accordance with section 4a-
151 100. The provisions of this subsection shall not apply to [a project
152 described in subdivision (2) of subsection (a) of this section] the
153 downtown Hartford higher education center project, as defined in
154 subsection (l) of section 4b-55.

155 Sec. 3. Subsection (a) of section 4b-24b of the general statutes is
156 repealed and the following is substituted in lieu thereof (*Effective July*
157 *1, 2014*):

158 (a) Whenever realty uses designed uniquely for state use and for
159 periods over five years are concerned, the Commissioner of
160 Administrative Services shall, whenever practicable, attempt to
161 construct on state-owned land. Whenever the Commissioner of
162 Administrative Services has established specific plans and
163 specifications for new construction on state land or new construction
164 for sale to the state: (1) If it appears to the commissioner that the cost of
165 the project shall be less than one million five hundred thousand
166 dollars, contracts shall be made, where practicable, through a process
167 of sealed bidding as provided in section 4b-91, as amended by this act,
168 relating to projects in excess of one million five hundred thousand
169 dollars; (2) if it appears to the commissioner that the space needs of the
170 requesting agency are less than five thousand square feet, the
171 commissioner shall, whenever practicable, carry on advertising, in
172 accordance with the provisions of section 4b-34 relating to projects in
173 excess of five thousand square feet, in order to allow an equal
174 opportunity for third parties to do business with the state without
175 regard to political affiliation, political contributions or relationships
176 with persons in state, federal or local governmental positions.

177 Sec. 4. Section 4b-52 of the 2014 supplement to the general statutes is
178 repealed and the following is substituted in lieu thereof (*Effective July*
179 *1, 2014*):

180 (a) (1) No repairs, alterations or additions involving expense to the
181 state of five hundred thousand dollars or less or, in the case of repairs,

182 alterations or additions to a building rented or occupied by the Judicial
183 Branch, one million two hundred fifty thousand dollars or less or, in
184 the case of repairs, alterations or additions to a building rented or
185 occupied by a constituent unit of the state system of higher education,
186 two million dollars or less, shall be made to any state building or
187 premises occupied by any state officer, department, institution, board,
188 commission or council of the state government and no contract for any
189 construction, repairs, alteration or addition shall be entered into
190 without the prior approval of the Commissioner of Administrative
191 Services, except repairs, alterations or additions to a building under
192 the supervision and control of the Joint Committee on Legislative
193 Management and repairs, alterations or additions to a building under
194 the supervision of The University of Connecticut. Repairs, alterations
195 or additions which are made pursuant to such approval of the
196 Commissioner of Administrative Services shall conform to all
197 guidelines and procedures established by the Department of
198 Administrative Services for agency-administered projects. (2)
199 Notwithstanding the provisions of subdivision (1) of this subsection,
200 repairs, alterations or additions involving expense to the state of five
201 hundred thousand dollars or less may be made to any state building or
202 premises under the supervision of the Office of the Chief Court
203 Administrator or a constituent unit of the state system of higher
204 education, under the terms of section 4b-11, and any contract for any
205 such construction, repairs or alteration may be entered into by the
206 Office of the Chief Court Administrator or a constituent unit of the
207 state system of higher education without the approval of the
208 Commissioner of Administrative Services.

209 (b) Except as provided in this section, no repairs, alterations or
210 additions involving an expense to the state of more than five hundred
211 thousand dollars or, in the case of [repairs, alterations or additions to a
212 building rented or occupied by the Judicial Branch] any repair,
213 alteration or addition administered by the Department of
214 Administrative Services, more than one million [two] five hundred
215 [fifty] thousand dollars, [or, in the case of repairs, alterations or
216 additions to a building rented or occupied by a constituent unit of the

217 state system of higher education, more than two million dollars,] shall
218 be made to any state building or premises occupied by any state
219 officer, department, institution, board, commission or council of the
220 state government, nor shall any contract for any construction, repairs,
221 alteration or addition be entered into, until the Commissioner of
222 Administrative Services or, in the case of the construction or repairs,
223 alterations or additions to a building under the supervision and
224 control of the Joint Committee on Legislative Management of the
225 General Assembly, said joint committee or, in the case of construction,
226 repairs, alterations or additions to a building involving expenditures in
227 excess of five hundred thousand dollars but not more than one million
228 two hundred fifty thousand dollars under the supervision and control
229 of the Judicial Branch, said Judicial Branch or, in the case of the
230 construction, repairs, alterations or additions to a building involving
231 expenditures in excess of five hundred thousand dollars but not more
232 than two million dollars under the supervision and control of one of
233 the constituent units of higher education, the constituent unit, has
234 invited bids thereon and awarded a contract thereon, in accordance
235 with the provisions of sections 4b-91 to 4b-96, inclusive, as amended
236 by this act. The Commissioner of Administrative Services, with the
237 approval of the authority having the supervision of state employees or
238 the custody of inmates of state institutions, without the necessity of
239 bids, may employ such employees or inmates and purchase or furnish
240 the necessary materials for the construction, erection, alteration, repair
241 or enlargement of any such state building or premises occupied by any
242 state officer, department, institution, board, commission or council of
243 the state government.

244 (c) Whenever the Commissioner of Administrative Services declares
245 that an emergency condition exists at any state facility, other than a
246 building under the supervision and control of the Joint Committee on
247 Legislative Management, and that the condition would adversely
248 affect public safety or the proper conduct of essential state government
249 operations, or said joint committee declares that such an emergency
250 exists at a building under its supervision and control, the
251 commissioner or the joint committee may employ such assistance as

252 may be required to restore facilities under their control and
253 management, or the commissioner may so act upon the request of a
254 state agency, to restore facilities under the control and management of
255 such agency, without inviting bids as required in subsection (b) of this
256 section. The commissioner shall take no action requiring the
257 expenditure of more than one million five hundred thousand dollars to
258 restore any facility under this subsection (1) without the written
259 consent of the Governor, and (2) until the commissioner has certified to
260 the [joint committee of the General Assembly having cognizance of
261 matters relating to legislative management] Joint Committee on
262 Legislative Management that the project is of such an emergency
263 nature that an exception to subsection (b) of this section is required.
264 Such certification shall include input from all affected agencies, detail
265 the need for the exception and include any relevant documentation.
266 The provisions of this subsection shall not apply if any person is
267 obligated under the terms of an existing contract with the state to
268 render such assistance. The annual report of the commissioner shall
269 include a detailed statement of all expenditures made under this
270 subsection.

271 (d) The Commissioner of Administrative Services may, during the
272 term of a lease of a building or premises occupied by any state offices,
273 department, institution, board, commission or council of the state
274 government, (1) renegotiate the lease in order to enable the lessor to
275 make necessary alterations or additions up to a maximum amount of
276 five hundred thousand dollars, [and] subject to the approval of the
277 State Properties Review Board, or (2) require that a security audit be
278 conducted for such building or premises and, if necessary, renegotiate
279 the lease in order to enable the lessor to make necessary alterations or
280 additions to bring the building or premises into compliance with the
281 security standards for state agencies established under section 4b-132.
282 Alterations or additions under subdivision (2) of this subsection shall
283 not be subject to the spending limit in subdivision (1) of this
284 subsection, and a renegotiated lease under said subdivision (2) shall be
285 subject to the approval of the State Properties Review Board, provided
286 such approval requirement shall not compromise the security

287 requirements of chapter 60a and this section. The commissioner shall
288 determine the manner of submission, conditions and requirements of
289 bids and awards made for alterations or additions under this
290 subsection. No lease shall be renegotiated under this subsection for a
291 term less than five years. As used in this subsection, "security" and
292 "security audit" have the meanings assigned to such terms in section
293 4b-130.

294 Sec. 5. Section 4b-103 of the general statutes is repealed and the
295 following is substituted in lieu thereof (*Effective July 1, 2014*):

296 (a) In order to carry out any provision of this title for the
297 construction, renovation or alteration of buildings or facilities, the
298 Commissioner of Administrative Services may enter into a
299 construction manager at-risk project delivery contract.

300 (b) [The] Except as provided in subsections (c) and (d) of this
301 section, the Commissioner of Administrative Services shall not enter
302 into a construction manager at-risk project delivery contract that does
303 not provide for a maximum guaranteed price for the cost of
304 construction that shall be determined not later than the time of the
305 receipt and approval by the commissioner of the trade contractor bids.
306 Each construction manager at-risk shall invite bids and give notice of
307 opportunities to bid on project elements [, by advertising, at least once,
308 in one or more newspapers having general circulation in the state] on
309 the State Contracting Portal. Each bid shall be kept sealed until opened
310 publicly at the time and place as set forth in the notice soliciting such
311 bid. The construction manager at-risk shall, after consultation with and
312 approval by the commissioner, award any related contracts for project
313 elements to the responsible qualified contractor submitting the lowest
314 bid in compliance with the bid requirements, provided (1) the
315 construction manager at-risk shall not be eligible to submit a bid for
316 any such project element, and (2) construction shall not begin prior to
317 the determination of the maximum guaranteed price, except for the
318 project elements of site preparation and demolition that have been
319 previously put out to bid and awarded.

320 (c) Construction may begin prior to the determination of the
321 maximum guaranteed price for the project elements of site
322 preparation, demolition, public utility installation and connections,
323 and building envelope components, including the roof, doors,
324 windows and exterior walls, provided (1) the project is the renovation
325 of an existing building or facility; (2) the project element or elements
326 involved in such early work have been previously put out to bid and
327 awarded; and (3) the total cost of construction of the early work does
328 not exceed twenty-five per cent of the estimated cost of construction
329 for the entire project.

330 (d) If such project involves the renovation of an existing building or
331 facility that will be performed in multiple phases while such building
332 or facility remains occupied, the Commissioner of Administrative
333 Services may enter into a construction manager at-risk project delivery
334 contract that provides for the maximum guaranteed price to be
335 determined for each phase of the project, prior to beginning each such
336 phase, provided all requirements of subsection (b) of this section other
337 than the timing of the determination of the maximum guaranteed price
338 are complied with.

339 Sec. 6. Subsection (d) of section 4b-51 of the general statutes is
340 repealed and the following is substituted in lieu thereof (*Effective July*
341 *1, 2014*):

342 (d) (1) Notwithstanding any provision of the general statutes, the
343 Commissioner of Administrative Services may select consultants to be
344 on a list established for the purpose of providing any consultant
345 services. Such list shall be established as provided in sections 4b-56
346 and 4b-57. The commissioner may enter into a contract with any
347 consultant on such list to perform a range of consultant services or to
348 perform a range of tasks pursuant to a task letter detailing services to
349 be performed under such contract.

350 (2) Notwithstanding any provision of the general statutes, the
351 Commissioner of Administrative Services may (A) compile a list of
352 architects, professional engineers and construction administrators for

353 the limited purpose of providing consultant services for a particular
 354 program involving various projects for the construction of new
 355 buildings or renovations to existing buildings where such buildings
 356 are under the operation and control of either the Military Department
 357 or the Department of Energy and Environmental Protection, and (B)
 358 enter into a contract with any architect, professional engineer or
 359 construction administrator on such list for such limited purpose.

360 (3) As used in this subsection, "consultant" means "consultant" as
 361 defined in section 4b-55, and "consultant services" means "consultant
 362 services" as defined in section 4b-55.

363 Sec. 7. Section 4b-91 of the general statutes is amended by adding
 364 subsection (k) as follows (*Effective July 1, 2014*):

365 (NEW) (k) Notwithstanding any provision of this chapter, the
 366 Commissioner of Administrative Services may purchase equipment,
 367 supplies, materials or other property or services under sections 4a-53
 368 and 4a-66 as required to fulfill his or her responsibilities under this
 369 chapter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	4b-91(a) and (b)
Sec. 2	<i>July 1, 2014</i>	4b-91(j)
Sec. 3	<i>July 1, 2014</i>	4b-24b(a)
Sec. 4	<i>July 1, 2014</i>	4b-52
Sec. 5	<i>July 1, 2014</i>	4b-103
Sec. 6	<i>July 1, 2014</i>	4b-51(d)
Sec. 7	<i>July 1, 2014</i>	4b-91

Statement of Legislative Commissioners:

Section 1(a)(1) was rephrased for clarity and section 1(a)(3) was rephrased for internal consistency. The effective dates of sections 3 and 4 were changed to July 1, 2014 for consistency with section 1.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Dept. of Administrative Services	GF - Precludes Revenue Loss	See Below	See Below
Treasurer, Debt Serv.	GF - Potential Savings	See Below	See Below

Municipal Impact: None

Explanation

The bill allows the Department of Administrative Services (DAS) to enter into "on-call" contracts with certain administrators constructing or renovating buildings. This may reduce the amount of time needed to begin construction on projects that are partially funded by the federal government. This may preclude a loss of revenue because the funds for such projects must be committed within a specific federal fiscal year.

The bill may reduce the length of time needed to complete renovation projects, which could reduce project costs. This may result in a General Fund savings for debt service on General Obligation (GO) bonds because the majority of state renovation projects are financed with GO bonds. GO bonds are issued by the Office of the State Treasurer.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 248*****AN ACT CONCERNING PUBLIC WORKS PROJECTS AND THE THRESHOLD FOR COMPETITIVE BIDDING, SUBCONTRACTOR PREQUALIFICATION, CONSTRUCTION MANAGER AT-RISK PROJECT DELIVERY CONTRACTS, THE HIRING OF CONSULTANTS AND THE PURCHASING OF CERTAIN PROPERTY AND SERVICES.*****SUMMARY:**

This bill increases, from \$500,000 to \$1.5 million, the threshold triggering requirements for a competitive bidding process for state public works projects administered by the Department of Administrative Services (DAS). It establishes a separate awards process for DAS-administered public works projects that cost more than \$500,000 but less than \$1.5 million. It similarly increases, from \$500,000 to \$1.5 million, the cost of emergency repairs that DAS may contract for without certification to the Legislative Management Committee and the governor's prior approval.

The bill also requires certain subcontractors to be prequalified by DAS at the time a bid is submitted. The law requires subcontractors with contracts worth more than \$500,000 for public works projects paid for in whole or in part by the state, except for those administered by the Department of Transportation (DOT), to be prequalified by DAS, but such subcontractors currently have until the project starts to become prequalified (§ 2).

The bill allows, for DAS construction manager at risk (CMR) projects that involve renovations of existing buildings or facilities, (1) certain work to begin before the project's guaranteed maximum price (GMP) is determined and (2) a separate GMP to be determined for each phase of a multi-phase project.

The bill specifically allows DAS to enter into “on-call” contracts with architects, professional engineers, and construction administrators “for a particular program involving various projects” for constructing or renovating buildings under the control of either the Military Department or the Department of Energy and Environmental Protection. Under current law, DAS can enter into on-call contracts for a range of consultant services or a range of tasks pursuant to a task letter detailing the services to be performed (see BACKGROUND) (§ 6).

The bill also specifically allows the DAS commissioner, when purchasing equipment, supplies, materials, or other property or services needed to fulfill his public works-related responsibilities, to (1) use cooperative purchasing and (2) purchase directly from the federal government.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2014

§§ 1, 3, & 4 — COMPETITIVE BIDDING THRESHOLD

The bill increases, from \$500,000 to \$1.5 million, the project cost threshold triggering competitive bidding for DAS-administered public works projects. Under current law, with certain exceptions (e.g., DOT-administered projects), any contract for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building or any other public work by the state estimated to cost more than \$500,000 must be awarded, through competitive bidding, to the lowest responsible DAS-prequalified contractor. The bill retains the \$500,000 competitive bidding threshold for projects administered by other agencies (e.g., the Judicial Branch).

Sealed Bids for Projects Costing Less Than \$1.5 Million

The bill establishes a separate process of sealed bidding, developed by the DAS commissioner, for DAS-administered public works projects estimated to cost more than \$500,000 but less than \$1.5 million. The process must be (1) different from the competitive bidding process

described above, (2) followed whenever practicable, and (3) include soliciting bids from (a) at least three contractors on a list of preselected contractors or (b) all available contractors on the list if fewer than three are available. The contractors must be deemed by the DAS commissioner to possess the necessary skill, ability, and integrity to perform the specific scope of work.

§ 4 — EMERGENCY REPAIRS

The law allows the DAS commissioner and the Legislative Management Committee to enter into contracts for emergency repairs to state facilities without competitive bidding. Under current law, the commissioner cannot act on a project costing more than \$500,000 without (1) the governor's written consent and (2) certifying to the Legislative Management Committee that a competitive bidding exception is warranted because of the project's emergency nature. The bill increases the threshold for invoking these conditions to \$1.5 million.

§ 5 — CMR PROJECTS

By law, a CMR project cannot proceed until the GMP is determined, except for site preparation and demolition work for which contracts have previously been bid and awarded (see BACKGROUND). The bill allows public utility installation and connections, and building envelope components (e.g., roof, doors, windows, exterior walls), to also begin before the GMP is determined, as long as they (1) have previously been bid and awarded and (2) do not cost more than 25% of the entire project's estimated construction cost. This authority applies only to CMR projects that involve renovations of existing buildings or facilities. The bill also allows a separate GMP to be determined for each phase of a multi-phase project that involves renovating an existing building while it remains occupied. Under current law, one GMP is determined for the entire project.

The bill eliminates a requirement that the construction manager for a DAS-administered CMR project advertise, in one or more newspapers having general circulation in the state, bidding

opportunities for project elements (i.e., trade packages) of a CMR project. Instead, it conforms the law to current practice by requiring that such opportunities be posted on the State Contracting Portal.

§ 7 — COOPERATIVE PURCHASING

The bill specifically allows the DAS commissioner, when purchasing equipment, supplies, materials, or other property or services needed to fulfill his public works-related responsibilities, to (1) use cooperative purchasing and (2) purchase them directly from the federal government.

By law, the commissioner may join with federal agencies, other states, Connecticut political subdivisions, or nonprofit organizations in cooperative purchasing plans when it is in the state's best interests to do so. He may also, on the state's behalf, purchase equipment, supplies, materials, and services by joining existing purchasing contracts with these entities or public consortia. The state is subject to the same contract terms and conditions as the other entities. The commissioner may also, on the state's behalf, purchase, lease, or otherwise acquire equipment, supplies, materials, or other property from the federal government.

BACKGROUND

On-Call Contracts

An on-call contract defines a broad range of consultant services (e.g., architectural services, professional engineers, accountants, and others) and is generally valid for two to three years. An on-call contract is generally not connected to a specific project; rather, DAS subsequently issues task letters to firms with on-call contracts that identify a specific scope of services to be performed and the fee for those services.

DAS must establish selection panels for evaluating consultant services proposals (including those for on-call contracts) if the value of the services exceeds \$300,000. The panels must submit a list of the most qualified firms to the DAS commissioner for his consideration.

CMR Projects

In a CMR project, the owner (e.g., DAS) hires a firm with construction experience (the construction manager or “CM”), usually during a project’s design phase, to manage the entire construction process. The CM provides pre-construction services such as estimating costs, budgeting, reviewing constructability and suggesting construction alternatives, and scheduling. Once the design is finalized, the CM seeks competitive bids from subcontractors for each project element (e.g., electrical, mechanical, carpentry, roofing). Once the subcontractors’ bids are received and verified for compliance with project requirements, scope, and specifications, the CM and the project owner negotiate and set a GMP for construction. The CM assumes the risk to complete the project within the GMP.

The GMP includes the CM’s fee, the cost of the work, and contingency funds for the project. The CM is responsible for costs that exceed the GMP, excluding any work not included in the final GMP that the owner authorizes through a change order process.

Related Bill

sSB 5311, reported favorably by the Government Administration and Elections Committee, increases, from \$500,000 to \$1 million, the threshold at which any state agency may administer its own public works project. It also increases the competitive bidding threshold to \$1 million for all agencies.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/24/2014)